

Application No. 09/756,563
Response to Office Action of May 3, 2004

REMARKS

In the Office Action of May 3, 2004, claim 1-4 stand rejected. In this response, claims 1-4 have been amended and new claims 5-7 have been added. Reconsideration and allowance of all pending claims is respectfully requested in view of the following remarks. No new subject matter has been added by this response.

I. CLAIM REJECTIONS.

A. 35 U.S.C. § 102 Rejections

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). MPEP 2131.

Claims 1 and 2 stand rejected under 35 U.S.C. § 102 (e) as anticipated by U.S. Patent No. 6, 438, 141 to Hanks et al. ("*Hanks*").

Claim 1, as amended, recites, in part "predicting whether sufficient network resources exist to accommodate said request based on the first said set of distribution parameters and the second set of distribution parameters for each of said plurality of devices". This limitation is not found in *Hanks*. In *Hanks*, an averaging method is used which uses the bandwidth of users as measured in bits/second or pixels/second to determine network allocations. *Hanks* does not disclose, teach or suggest a first set of distribution parameters and a second set of distribution parameters. Therefore, claim 1 is in condition for allowance. Claim 2 depends from allowable claim 1 and therefore, is in condition for allowance.

B. 35 U.S.C. § 103 Rejections

Claim 3 stands rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Hanks* in view of U.S. patent No. 6, 597, 705 to Rezaiifar et al ("*Rezaiifar*").

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Claim 4 stands rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Hanko* in view of U.S. Patent No. 6,038, 214 to Shionozaki ("*Shionozaki*").

Claims 3 and 4 depend from allowable claim 1. Therefore, for at least this reason, claims 3 and 4 are allowable.

II. New Claims

New claims 5-7 have been added. Claim 5, recites, in part "a demand prediction processor operable to store for each of a plurality of devices a first set of distribution parameters associated with the distribution of the period of time when the device is active and a second set of distribution parameters associated with the distribution of the periods of time when the device is inactive, the demand prediction processor further operable to calculate, upon receiving a request for network access, an estimated probability of whether each of the plurality of devices will be active or inactive". As discussed above, this limitation is not found in *Hanko* or any other art cited by the Examiner. Therefore, claims 5 and its dependent claims 6-7 are allowable.

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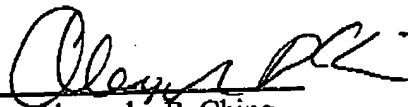
III. CONCLUSION.

For the foregoing reasons, the present application is believed to be in condition for allowance and favorable action is respectfully requested. The Examiner is invited to telephone the undersigned at the telephone number listed below if it would in any way advance prosecution of this case.

While no other fees are believed due, the Applicant hereby requests that any other required fee to maintain pendency of this case, except for the Issue Fee, be charged to Deposit Account 50-2091.

Respectfully submitted,

June 29, 2004
Date

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